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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/707,156

11/06/2000

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MRS-015U

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Schramm-Personal: Complete

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EXAMINER

BEKKER, KELLY JO

ART UNIT

PAPER NUMBER

1781

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DELIVERY MODE

04/02/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/707,156	<b>Applicant(s)</b> SCHRAMM ET AL.	
	<b>Examiner</b> KELLY BEKKER	<b>Art Unit</b> 1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 27-46 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 27-46 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on October 25, 2011 has been entered.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 27-46 are rejected under 35USC103(a) as being unpatentable over Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy Warehouse (3/27/03), the references labeled exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), Hoeting et al ('870) and Applicants' admission of the prior art, in view of Price (3,840,678), as further evidenced by Hunter (GB ('356), Williams ('174), Ciffo (2,917,766), Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164) and further in view of Vogelsang (4,522,523) and Manzone (6,159,492).**

The references and rejection are incorporated herein and as cited in the examiners answer mailed December 9, 2010. The instant claim limitations are the same as those previously recited and thus are rejected for the same reasons of record. Specifically, claims 27, 34, 36, and 41 recite the same limitations as previously found in claim 1; claims 28, 37, 45, and 46 recite the same limitations as previously found in claim 2; claims 29, 34, and 42 recite the same limitations as previously found in claim 3, claims 30, 35, and 37 recite the same limitations as previously found in claim 4; claims

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31 and 38 recite the same limitations as previously found in claim 5; claims 32, 39, and 43 recite the same limitations as previously found in claim 6; and claims 33, 40, and 44 recite the same limitations as previously found in claim 7.

**Claims 27-46 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Price (3,840,678)**, as further evidenced by Hunter (GB ('356), Williams ('174), Ciffo (2,917,766), Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164), **in view of Product Alert (3/23/98)**, as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy Warehouse (3/27/03), the references labeled exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), Hoeting et al ('870), and Applicants' admission of the prior art, **and further in view of Vogelsang (4,522,523) and Manzone (6,159,492).**

The references and rejection are incorporated herein and as cited in the examiners answer mailed December 9, 2010. The instant claim limitations are the same as those previously recited and thus are rejected for the same reasons of record. Specifically, claims 27, 34, 36, and 41 recite the same limitations as previously found in claim 1; claims 28, 37, 45, and 46 recite the same limitations as previously found in claim 2; claims 29, 34, and 42 recite the same limitations as previously found in claim 3, claims 30, 35, and 37 recite the same limitations as previously found in claim 4; claims 31 and 38 recite the same limitations as previously found in claim 5; claims 32, 39, and 43 recite the same limitations as previously found in claim 6; and claims 33, 40, and 44 recite the same limitations as previously found in claim 7.

### ***Conclusion***

This is a continued examination. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action

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in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY BEKKER whose telephone number is (571)272-2739. The examiner can normally be reached on Monday through Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kelly Bekker/  
Primary Examiner  
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